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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,085	03/22/2001	Stefan Wintermantel	DRN204	3427
7590	12/31/2003		EXAMINER	
Horst M Kasper 13 Forest Drive Warren, NJ 07059			WILSON, JOHN J	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/806,085

Applicant(s)

WINTERMANTEL, STEFAN

Examiner

John J. Wilson

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-22, 37 and 39-41 is/are allowed.
- 6) ☒ Claim(s) 1-19, 23-36 and 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19, 23-27, 32, 34 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 5-7, "guidable by the force of a spring (F) as seen from the removal direction of the denture under regions of a fixedly seated element (S)" is unclear. In claims 26, 34 and 38, a "second direction" is unclear because the claim has not defined a first direction. In claim 32, the claim defines a second basal limit before describing a first, and in lines 15 and 16, it is not clear how the flattenings can unlock the fixedly seated element for the fixedly seated element. Claims 1, 23-25 and 32 are indefinite because they recite a functional limitation of moving parts in a removal direction while failing to claim any actual structure capable of performing this function. Applicant is required to check all of the claims for general language problems in this application. All of the claims must be checked and placed in proper US form.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 23-25, 32-36 and 38 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject

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matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. These claims contain the limitation of "spring (F), the locking bar (R) and the pushbutton (D) become lifted". The original disclosure did not disclose or teach this limitation. The original disclosure appears to be directed to a fixed element (S) moving. Further, these claims appear to be implying that the stop faces claimed somehow move the elements, however, there is no teaching of this in the original disclosure.

Drawings

The proposed drawing changes filed October 27, 2003 have not been approved because the copy of Fig. 2 was cut off in the region of numeral 12 rendering it impossible to evaluate the location of the numeral. With respect to newly proposed figures 22 and 23, it is noted that numeral 12 in Fig. 23 is out of place. Otherwise, in general, these figures appear to be okay, they cannot be properly evaluated until an accompanying amendment to the specification is submitted so that they can be evaluated for the presence of new matter. If applicant persists in amending the drawings and specification as describe, applicant must make a statement that the amendment do not contain new matter.

Claim Objections

In claim 20, forth line from the bottom, see "the the spring". In claims 23 and 24, line 12, see "engage able". In claim 25, lines 13, and 26, line 4, see "slid able". In claim 32, see unusual terminology, "flattenings"

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19, 32-36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romagnoli (4345901) in view of Weissman (4661069) or Sulc (5120222). Romagnoli shows a connecting element having a slidable locking bar 13, Fig. 5, spring 15 and push button 14. Romagnoli shows engagement elements 13a and groove 6. Elements 13a and 6 inherently comprise stop surfaces because the stop the elements from moving when engaged. Romagnoli does not state that the shown elements can function to allow for a slight lifting. Weissman teaches that bridge elements need to prevent movement of the elements, column 6, lines 11-24, and Sulc also teaches the need in the art to prevent movement, column 7, lines 44-50. It is further noted that it is well known in the art that a loose bridge is undesirable, and therefore, such connections are made to be tight. It would be obvious to one of ordinary skill in the art to modify Romagnoli to include a tight connection between elements 13a

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and 6 as suggested by Weissman or Sulc in order to prevent movement of the bridge. A tight connection between the elements inherently implies that surfaces of the elements are in opposed force engagement. As the engagement is released, the forces are released and the elements will inherently move away from each other. The claims are only limited by the functional limitation of a slight lifting. The shown obvious structure is capable of functioning as claimed. The specific shape of the inferentially claimed denture or tooth or implant is given no patentable weight. The specific shape of the elements is an obvious matter of choice in the shape of known structure to the skilled artisan. As to claim 32, Romagnoli shows a fixed element 1, stop 6, locking device 12 having an inner surface that will stop the elements from moving and that has a locked position relative to 1, see Fig. 4 and a removal position relative to 1, see Fig. 5, a locking bar 13 having a holding surface 13a and a pushbutton 14. See combination with Weissman and Sulc above. As stated the combination will function to allow the elements to be lifted. To use flattenings for surface 13a is an obvious matter of choice in the shape of known elements to one of ordinary skill in the art. As to claims 35 and 36, to call the end 13a a bolt is an obvious matter of choice in terminology to the skilled artisan. As to claim 38, the method is obvious in view of the shown structure described above.

Allowable Subject Matter

Claims 20-22, 27-31, 37, 39, 40 and 41 are allowed.

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Claims 23-25 stand rejected under 35 U.S.C. 112, first and second paragraphs only.

Claim 26 stands rejected under 35 U.S.C. 112, second paragraph only.

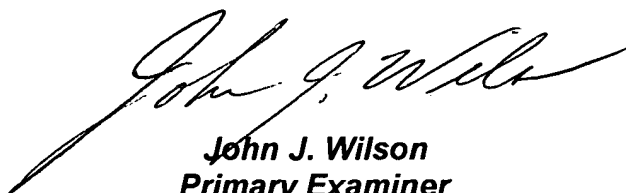
Response to Arguments

Applicant's arguments filed October 27, 2003 have been fully considered but they are not persuasive. Applicant has challenged the examiner's holding of inherency. This challenge is responded to by the above newly applied reference and rejection explaining the holding. Applicant is reminded that when a structure claim is limited by a functional recitation and fails to include any structure that performs that specific function, the claims is properly met by any structure capable of functioning as claimed. The degree of lifting is not limited, therefore, even a microscopic or atomic level of movement will properly meet this limitation. With respect to the stop surfaces, surface 13a abuts against surface 6 to prevent movement, column 3, line 65 through column 4, line 2, and therefore, inherently comprises a stop surface.

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Conclusion

Any inquiry concerning this communication should be directed to John Wilson at telephone number (703) 308-2699.

A handwritten signature in black ink, appearing to read "John J. Wilson", is written over a horizontal line.

**John J. Wilson
Primary Examiner
Art Unit 3732**

jjw

December 28, 2003

Fax (703) 308-2708

Work Schedule: Monday to Friday – Flex Time